

Office of the Secretary, USDA

§ 15.68

SOURCE: 30 FR 14355, Nov. 17, 1965, unless otherwise noted.

GENERAL INFORMATION

§ 15.60 Scope of rules.

The rules of practice and procedure in this subpart supplement §§15.9 and 15.10 of subpart A of this part and govern the practice for hearings, decisions, and administrative review conducted by the Department of Agriculture, pursuant to title VI of the Civil Rights Act of 1964, section 602 (78 Stat. 252) and this part, title 7, CFR, except these rules shall not apply to any stage of a proceeding which has occurred prior to the effective date hereof.

§ 15.61 Records to be public.

All documents and papers filed in any proceeding under this part may be inspected and copied in the Office of the Department Hearing Clerk.

§ 15.62 Definitions.

All terms used in this subpart shall, unless the context otherwise requires, have the same meaning as defined in subpart A of this part.

§ 15.63 Computation of time.

A period of time begins with the day following the act or event and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which case it shall be the following workday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 15.64 Parties.

The term *party* shall include an applicant or recipient with respect to whom the agency has issued a notice of hearing or opportunity to request a hearing in accordance with subpart A of this part and §15.81. The agency shall be deemed a party to all proceedings.

§ 15.65 Appearance.

Any party may appear in person or by counsel or authorized representative and participate fully in any proceeding.

§ 15.66 Complainants not parties.

A person submitting a complaint pursuant to §15.6 is not a party to the proceedings governed by this subpart, but may petition, after proceedings have been commenced, to become an intervenor.

§ 15.67 Intervener.

Any interested person or organization may file a petition to intervene which will include a statement of position and a statement of what petitioner expects to contribute to the hearing, and a copy of the petition will be served on all parties. Such petition should be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The hearing officer may grant the petition if he believes that such participation will not unduly delay a hearing and will contribute materially to the proceeding. An intervenor is not a party and may not introduce evidence at a hearing, or propound questions to a witness, unless the hearing officer determines that the proposed additional evidence is relevant and will clarify the facts. The intervenor may submit and serve on all parties a brief in support or opposition to any brief of a party. All service and notice required by and upon a party shall apply to an intervenor.

§ 15.68 *Ex parte* communications.

(a) *General.* After proceedings have been commenced, any communication or discussion *ex parte*, as regards the merits of the proceeding or a factually related proceeding, between an employee of the Department involved in the decisional process and a person not employed by the Department, and any such communication or discussion between any employee of the Department, who is or has been engaged in any way in the investigation or prosecution of the proceeding or a factually related proceeding, and an employee of the Department who is involved or may be involved in the decisional process of a proceeding, except at a conference, hearing or review proceeding under these rules is improper and prohibited.

(b) *Request for information.* A request for information about the status of a